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UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA, OAKLAND DIVISION

CALIFORNIA COALITION FOR WOMEN
PRISONERS; et al.,

Plaintiffs,

v.

UNITED STATES OF AMERICA; UNITED
STATES OF AMERICA FEDERAL BUREAU OF
PRISONS, et al.,

Defendants.

Case No. 4:23-cv-04155

**DECLARATION OF DAVID LOY
IN SUPPORT OF MOTION TO
INTERVENE FOR LIMITED
PURPOSE OF UNSEALING COURT
RECORDS AND PROTECTING
ACCESS TO PUBLIC
PROCEEDINGS**

Judge: Yvonne Gonzalez Rogers

Date: July 16, 2024

Time: 2:00 p.m.

Courtroom: 1 (Fourth Floor)

DECLARATION OF DAVID LOY

I, David Loy, declare under penalty of perjury as prescribed in 28 U.S.C. § 1746 that the following is true and correct:

1. I am the Legal Director of the First Amendment Coalition (“FAC”). I have served in my current position as Legal Director since February 2022.

2. FAC seeks to intervene in this case to protect its significant interests and those of its members, as guaranteed by the First Amendment, in accessing records filed in and proceedings held by this Court about the operations of the Federal Correctional Institution, Dublin (“FCI Dublin”), a public, government-funded institution.

3. I am an experienced free speech and open government litigator, having fought for public disclosure and governmental transparency for over twenty years. As a litigator, I have defended the First Amendment rights of reporters, photographers, bloggers, students, teachers, activists, protestors, musicians, Marines, and more. Before joining FAC, I served as Legal Director of the ACLU Foundation of San Diego & Imperial Counties for nearly sixteen years.

4. Founded and established in 1988 as the California First Amendment Coalition, the First Amendment Coalition (“FAC”) is a nonpartisan public interest nonprofit dedicated to protecting and promoting a free press, freedom of expression, and the people’s right to know. FAC advocates on behalf of the public and its members through litigation (cases involving issues of censorship, rights of access to court and agency records, and access to proceedings of state and local governments), education (providing free legal information on the First Amendment and freedom-of-information issues), and public advocacy (op-eds and other articles, public speaking).

5. FAC believes that the broadest range of engaged and informed communities is essential to the health of our democracy, and that the values expressed by the First Amendment provide a blueprint for an inclusive, equitable society and a responsive, accountable government. We believe that to realize the promise of the values underlying the First Amendment, we must reach and include as broad a range of voices as possible to inform our policies, priorities, and programs. We recognize that there exist systemic inequities rooted in, among other things, race and gender.

1 6. FAC believes journalists serve as government watchdogs, shining a light in dark places
2 despite frequent threats to their access to information, independence, and resources.

3 7. Because information relating to incarceration, policing, and civil rights is of significant public
4 concern, FAC also has a demonstrated commitment to ensuring law enforcement's exercise of its power
5 is exposed to public scrutiny. For example, FAC participated in litigation resulting in two published
6 opinions establishing the California Attorney General's obligation to disclose law enforcement records
7 obtained from other agencies. In 2022 FAC's legal advocacy resulted in the release of previously secret
8 recordings of a police shooting of a San Diego woman experiencing mental distress, and the Ventura
9 County Sheriff's Office's disclosure of previously secret records about officer use of force and
10 misconduct. In May 2023, FAC and Knock LA, an independent news organization, prevailed in a legal
11 battle against the Los Angeles County Sheriff's Department ("LASD") over the unsealing of search
12 warrant materials. Through this victory, FAC ensured the public could finally examine LASD's stated
13 rationale for seizing and searching the cell phones and digital cameras of protesters demonstrating
14 against LASD deputies' killing of cyclist Dijon Kizzee on August 31, 2020 and journalists covering the
15 protest. More recently, in March 2024, FAC prevailed on the San Bernardino County Sheriff's
16 Department to release videos documenting the controversial shooting of a fifteen-year-old girl who had
17 been allegedly kidnapped by her father, and in January 2024, FAC successfully opposed a former police
18 officer's attempt to prevent a news outlet from reporting on allegations about his conduct.

19 8. FAC is committed to enforcing the First Amendment's presumptive right of public access to
20 court records and court hearings because it believes there can be no real accountability without
21 transparency. When needlessly sealed documents are revealed and hearings are opened, the public learns
22 how officials exercise their power and can decide for itself whether such officials are acting
23 appropriately.


24 9. It is FAC's understanding that FCI Dublin closed ten days after this Court appointed a special
25 master to oversee the prison. It is also FAC's understanding that many documents in this case have been
26 filed under seal, that this Court has recently held status conferences closed to the public, and that
27 additional closed status conferences may be scheduled in the future.

1 10. Because many motions to seal those documents were also filed under seal, and because the
2 content of the status conferences is not public information, it is difficult for FAC to discern what
3 information, exactly, is hidden from public view. But FAC believes public access to the docket and
4 proceedings in this case is essential to transparency and accountability. People recently incarcerated at
5 FCI Dublin, their communities, and the broader public deserve to know whether or to what extent FCI
6 Dublin has violated, and is violating, the civil rights of the people it incarcerated. People deserve this
7 knowledge not only because FCI Dublin is a public institution run by their tax dollars, but also (perhaps
8 more importantly) because of allegations that the prison has subjected incarcerated women to pervasive
9 sexual abuse at the hands of government officials.

10 11. This Court may decide whether FCI Dublin indeed violated, and whether it continues to
11 violate, incarcerated people's rights, as Plaintiffs allege, but the public has a compelling interest in
12 access to the information that is before the Court, so the public can assess for itself the true state of
13 conditions in the prison, the reason for the prison closure, and hold elected officials accountable as the
14 public sees fit.

15 I declare under penalty of perjury that the foregoing is true and correct.

16 Executed on June 3, 2024, in San Diego, California.

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David Loy, Legal Director
First Amendment Coalition